

TITLE 16. ACUPUNCTURE BOARD

NOTICE IS HEREBY GIVEN that the Acupuncture Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a **hearing to be held at the Milton Marks Conference Center, Lower Level Auditorium, 455 Golden Gate Avenue, San Francisco, CA, on August 22, 2005, at 9:00 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice must be received by the Board at its office not later than 5:00 p.m. on August 22, 2005, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 4933 Business and Professions Code, and to implement, interpret or make specific Section 4955 of the Business and Professions Code, the Board is considering changes to Division 13.7 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Section 4955 of the Business and Professions Code requires the Board to ensure that licensees are informed of the responsibility of licensees and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases. One way of meeting that requirement and protecting the public is amending section 1399.450 and 1399.451 eliminating their option to use non-disposable needles and adding section 1399.454 requiring the use of single use needles.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Cost or Savings to State Agencies

Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to Any Local Agency or School District for Which Government Code Section 17561

Requires Reimbursement: None

Business Impact:

The Board has determined that the proposed regulatory action will have the following significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

An Occupational Analysis was conducted in 1996 which included a survey that was sent to 1,070 licensed acupuncturists. The survey included a question on the type of needles acupuncturists use (disposable vs. reusable) in their practices. Ninety nine percent (99%) of those who responded to the survey answered that they only use disposable needles. While this survey supports a finding that there is a high percentage of acupuncturist that are using single use needles, the Board acknowledges that the proposed regulatory action may have a direct economic or fiscal impact on those acupuncturists who are still sterilizing their needles. However, the overall fiscal impact would be minimal because the average needle only costs between a half cent to three cents. In fact, the switch to the use of single use needles may provide a cost savings for licensees who are currently sterilizing needles because it would eliminate the cost of purchasing and maintaining equipment as well as the labor costs involved in the sterilization process.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Businesses:

Acupuncture businesses may have a cost impact. However, the overall fiscal impact would be minimal because the average needle only costs between a half cent to three cents. In fact, the switch to the use of single use needles may provide a cost savings for licensees who are currently sterilizing needles because it would eliminate the cost of purchasing and maintaining equipment as well as the labor costs involved in the sterilization process.

Effects on Housing Costs:

None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

The Board invites any interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Acupuncture Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all the information upon which this proposal is based, may be obtained at the hearing or prior to the hearing upon request by contacting Janelle Wedge, (916) 445-3021, at the Acupuncture Board, 444 North 3rd Street, Suite 260, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below.

CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Marilyn Nielsen, Executive Officer
444 North 3rd Street, Suite 260
Sacramento, CA 95814
(916) 445-3021
FAX: (916) 445-3015
E-Mail: Marilyn_Nielsen@dca.ca.gov

The backup contact person is:

Janelle Wedge, Administrative Coordinator
444 North 3rd Street, Suite 260
Sacramento, CA 95814
(916) 445-3021
FAX: (916) 445-3015
E-Mail: Janelle_Wedge@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to one of the contact persons named above.

Website Access: Materials regarding this proposal can be found at www.acupuncture.ca.gov